

- (iii) petrolatum as the lipophilic component (as recited in dependent claim 16, as-filed, and at page 17, line 28 of the specification as-filed; wherein such subject matter can be added to a new dependent claim 59 that depends from claim 24 after the Examiner approves the elections herein); and
- (iv) PEG-100 stearate as the surfactant (as recited at page 19, lines 13-16, and in Tables 1 and 2 at pages 31 and 33, respectively, of the application as-filed).

The Restriction and Election-of-Species Requirement further provided that if Applicants elect an emulsion that further comprises a lipophilic intradermal penetration enhancer, then a further election of a single disclosed species of lipophilic intradermal penetration is required.

In response, Applicants note that the recited emulsion may further comprise a lipophilic intradermal penetration enhancer. Accordingly, Applicants hereby elect transcutol P[®] (Gattefossé (ethoxydiglycol)) as a single disclosed species of lipophilic intradermal penetration enhancer (page 21, line 15 of the application as-filed).

The Restriction and Election-of-Species Requirement further provided that Applicants elect whether a humectant or an anti-foaming agent (not both) is present in the emulsion. In response, Applicants note that an anti-foaming agent is present in the emulsion.

The Restriction and Election-of-Species Requirement further provided that if Applicants elect an emulsion that further comprises an antifoaming agent, then a further election of a single disclosed species of antifoaming agent is required.

In response, Applicants note that, as recited in new claim 58, the recited emulsion may further comprise an antifoaming agent. Accordingly, Applicants hereby elect simethicone as a single disclosed species of antifoaming agent (page 20, lines 19-20 of the application as-filed).

Claims 24-40 and 58 of elected Group II read on each of the above-elected species of: (i) an antidepressant; (ii) an NMDA receptor antagonist; (iii) a lipophilic component; (iv) a surfactant; (v) a lipophilic intradermal penetration enhancer; and (vi) an antifoaming agent.

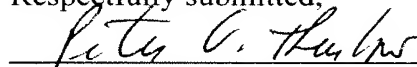
Applicant fully reserves all rights to prosecute the subject matter of the non-elected groups and species in one or more subsequent divisional patent applications.

CONCLUSION

Applicants respectfully request that the above elections and remarks be entered and made of record in the file history of the instant application. No fee is believed to be due for this submission. However, should any fees be required for this submission or to avoid abandonment of this application, please charge such fees to Jones Day Deposit Account No. 50-3013.

Date: January 14, 2009

Respectfully submitted,



By: Peter G. Thurlow (Reg. No. 47,138)

JONES DAY

222 East 41st Street

New York, New York 10017

(212) 326-3694